

Application No. 10/565948

Responsive to the office action dated August 14, 2009

### **REMARKS**

Favorable reconsideration of this application is requested in view of the following remarks. Claim 1 has been amended. The amendment to claim 1 is supported by the original disclosure, for example by page 35, paragraph [0057] to page 48, paragraph [0069] and page 55, paragraph [0080] to page 73, paragraph [0098] of the specification. Non-elected subject matter from claim 1 has been removed. Claims 10, 11, 15 and 16 have been canceled without prejudice or disclaimer. Claims 1-9, 12-14 and 17 are pending.

Claims 1-17 are rejected under 35 USC 112, first paragraph, for lack of enablement. Claim 1 recites that R<sup>6</sup> is optionally substituted phenyl, which is supported by page 36, paragraph [0057](A-1) of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted naphthyl, which is supported by page 61, paragraph [0086] (C-43) of the specification. Claim 1 recites that R<sup>6</sup> is optionally substituted furanyl, which is supported by page 12, paragraph [0015] of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted thiophenyl, which is supported by page 39, paragraph [0060](A-33) of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted cyclohexyl, which is supported by page 48, paragraph [0069] (A-117) of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted cyclohexenyl, which is supported by page 71, paragraph [0096] (C-105) of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted benzoxolanyl, which is supported by page 61, paragraph [0086] (C-47) of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted benzodioxolanyl, which is supported by page 41, paragraph [0062] (A-53) of the specification. Claim 1 also recites that R<sup>6</sup> is optionally substituted benzodioxanyl, which is supported by page 41, paragraph [0062] (A-54) of the specification.

Claim 1 further recites that R<sup>4</sup> is optionally substituted phenylene, which is supported by page 35, paragraph [0057] to page 48, paragraph [0069] and page 55, paragraph [0080] to page 73, paragraph [0098] of the specification. Claim 1 further recites that R<sup>4</sup> is optionally substituted thiophenylene, which is supported by page 48, paragraph [0070] to page 51, paragraph [0073]. Moreover, page 18, paragraph [0028] describes that compound represented by the general formula (I) may be synthesized by

Application No. 10/565948

Responsive to the office action dated August 14, 2009

the methods described in WO00/46189, WO 00/58304 and WO00/58280. These references describe the synthetic process of R4 moieties that include phenylene and thiophenylene as recited in claim 1. Accordingly, Applicants submit that the specification provides enablement for the R4 and R6 moieties as recited in claim 1, and therefore, one would know how to make or use the compound commensurate in scope with claim 1. Claims 15 and 16 have been canceled. Thus, claim 1 and its dependent claims comply with the enablement requirement.

Claim 15 is rejected under 35 USC 112, second paragraph, as being indefinite. Claim 15 also is rejected under 35 USC 101 because the claimed recitation of a use without setting forth any steps involved in the process. The rejections are rendered moot, as claim 15 has been canceled. Applicants do not concede the correctness of the rejection.

In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.



Dated: November 16, 2009

JAL/DPM/ym

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &  
LARSON, P.C.  
P.O. Box 2902  
Minneapolis, MN 55402-0902  
(612) 455-3800

By: 

James A. Larson  
Reg. No. 40,443